

1:14CV3561
JUDGE NUGENT

FILED
FEB 14 2014

CLERK OF COURT

Dennis J. Hunkler

P.O. Box 306

Barnesville, OH 43713

Petitioner, *Pro Se*

MAG. JUDGE MCCHARGH

UNITED STATES DISTRICT COURT
OHIO NORTHERN DISTRICT COURT

Dennis J. Hunkler,) CASE NO. 1
Petitioner,)
v.)
UNITED STATES OF AMERICA,) PETITION TO QUASH IRS
INTERNAL REVENUE SERVICE, and) THIRD PARTY SUMMONS
TIMOTHY O'BOYLE, REVENUE AGENT,)
Respondents.)

COMES NOW Dennis J. Hunkler, Petitioner, *pro se*, and petitions this Court to quash an Internal Revenue Service Third Party Administrative Summons.

JURISDICTION

1. This Court has jurisdiction pursuant to Title 26 U.S.C. § 7609 and Title 5 U.S.C. § 552(a).¹

2. Venue is proper, because the custodian of records and records sought (the subject of this controversy) by the summonses to Citizens National Bank which is within the United States District Court – Ohio Northern District Court.

¹ All further references to Code Sections are to Title 26 unless otherwise noted.

PARTIES

3. The Petitioner in this action is Dennis J. Hunkler, (Hunkler), whose address is P.O. Box 306, Barnesville, OH 43713.

4. The Respondents in this action are the United States of America, the Internal Revenue Service (hereinafter "IRS") and Timothy O'Boyle, IRS Revenue Agent (O'Boyle).

5. O'Boyle is the IRS official that issued the alleged summons which is the subject of this controversy. O'Boyle's mailing address is 1 Kalisa Way, 3rd Floor, Paramus, NJ 07652.

6. The Third Party from whom IRS seeks records is Citizens National Bank,
~~143 S. MAIN ST., WOODFIELD, OH 43793~~

7. The third party summons was issued to Citizens National Bank on January 27, 2014. (See Exhibit "A" the IRS summons issued to Citizens National Bank, a true and correct copy attached hereto.) On or about February 26, 2014, Citizens National Bank is scheduled to comply with the IRS summons, surrendering Hunkler's records to the IRS.

CAUSES OF ACTION AGAINST RESPONDENTS

For the Causes of Action against the Respondents, and each of them, Hunkler alleges as follows:

I. First Cause of Action Against Respondents

8. The Summons is in violation of the statutory summons process and should

be quashed because IRS failed to give Hunkler timely notices required by 26 U.S.C., Section 7609(a)(1), *i.e.*, 23 days notice prior to the date set to turn over the records requested. As a consequence Hunkler was not given the opportunity to timely file a Petition to Quash the Summons pursuant to Section 7609(b)(1).

II. Second Cause of Action Against Respondents

9. The IRS is in violation of the statutory summons process as they failed to provide Hunkler advance notice that contact with any of these third parties were to be made; and, failed to periodically provide Hunkler with a record of persons contacted by IRS about Hunkler as required by Section 7602(c)(1)&(2).

III. Third Cause of Action Against Respondents

10. Hunkler alleges upon information and belief that the Summons was issued while a referral for criminal prosecution to the Department of Justice is pending, which was made by the IRS in violation of Section 7602(d)(2)(A).

IV. Fourth Cause of Action Against Respondents

11. Because of the violations and abuses of the summonses process as alleged within paragraphs 8 through 13, inclusive, the IRS failed to meet the "GOOD FAITH" requirement of the *Powell*² standard.

V. Fifth Cause of Action Against Respondents

12. Respondents, contrary to law have caused, or will cause, Hunkler's records to be turned over to the Respondents in violation of the banking and constitutional

² *United States v. Powell*, 379 U.S. 48, 85 S.Ct. 248 (1964).

Privacy Laws of the United States of America and the constitutional privacy laws of the State of Ohio.

PRAYER FOR RELIEF

Wherefore, Hunkler respectfully requests that this Court:

1. QUASH the third party administrative summonses of January 27, 2014, to Citizens National Bank for the records pertaining to Dennis J. Hunkler.
2. ORDER that the IRS turn over to Hunkler a copy of any and all summonses and request for documents that were issued to third parties that were issued by IRS to any Third Parties to obtain records.
3. ORDER that the IRS turn over to Hunkler any and all records that were or will be obtained, in its investigation of Hunkler by any means that were not in full compliance with the summonsing provisions of the Internal Revenue Code Section 7602, et seq. and Section 7609, et seq.
4. ORDER Respondent to pay Hunkler \$1,000.00 for each violation of the State and Federal Privacy Laws.
5. Grant any and all other relief that the Court deems just and prudent, the foregoing considered.

Dated: Feb. 10, 2014



Dennis J. Hunkler, Pro Se Petitioner
P.O. Box 306
Barnesville, OH 43713

CERTIFICATE OF SERVICE

I, Dennis J. Hunkler, certify that pursuant to IRC §7609(b)(2)(B) true copies of the attached "PETITION TO QUASH IRS THIRD PARTY SUMMONSES" has been served, on this ____th day of February, 2014, via Certified Mail to each of the following parties:

Cert. Mail # _____

Internal Revenue Service, Timothy O'Boyle, Revenue Agent
1 Kalisa Way, 3rd Floor
Paramus, NJ 07652

Cert. Mail # _____

Citizens National Bank
~~P.O. Box 88~~ 143 South MAIN St
~~Bluffton, OH 45817~~ Woodsfield, OH 43793

Dennis J. Hunkler
Dennis J. Hunkler, *pro se*

cc: United States District Court
Ohio Northern District Court
Carl B. Stokes U.S. Court House
801 West Superior Ave.
Cleveland, OH 44113